

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-418-C - ORDER NO. 92-1044 ✓
DECEMBER 17, 1992

IN RE: Application of Communications Gateway)	
Network, Inc. for a Certificate of)	ORDER
Public Convenience and Necessity to)	APPROVING
Operate as a Reseller of Telecommuni-)	CERTIFICATE
cations Services within the State of)	
South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Communications Gateway Network, Inc. (Gateway or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. Gateway's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1991) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Gateway to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas one time. The purpose of the Notice of Filing was to inform interested parties of Gateway's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding.

Gateway complied with this instruction and provided the Commission

with proof of publication of the Notice of Filing. Petitions to Intervene were filed by Southern Bell Telephone and Telegraph Company (Southern Bell) and the South Carolina Department of Consumer Affairs (the Consumer Advocate).

A hearing was commenced on December 1, 1992, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Henry G. Yonce, Chairman, presided. Gateway was not represented by counsel. Kevin Hall, Esquire, represented Southern Bell; Carl F. McIntosh, Esquire, represented the Consumer Advocate; and Gayle B. Nichols, Staff Counsel, represented the Commission Staff.

At the beginning of the hearing Southern Bell announced that it had entered into a Stipulation with Gateway. Hearing Exhibit #1. The terms of the Stipulation are as follows:

- (1) Any grant of authority should clearly be for interLATA services only.
- (2) If any intraLATA calls are "inadvertently" completed by the carrier, the carrier should reimburse the LEC pursuant to the Commission's Order in PSC Docket No. 86-187-C. The definition of such inadvertent completion is contained in such Order.
- (3) All operator services should be only for interLATA calls and any "0+" or "0-" intraLATA calls should be handed off to the LEC.
- (4) Nothing in 1, 2, or 3 above shall prohibit Communications Gateway Network, Inc., from offering any services authorized for resale by tariffs of facility based carriers approved by the Commission.

After introducing the Stipulation into evidence as Hearing Exhibit #1, Southern Bell withdrew from further participation in the proceeding.

Gateway presented the testimony of Robert Sanit in support of its Application. Mr. Sanit explained Gateway's request for certification to operate as a reseller of interexchange telecommunications services in South Carolina. Mr. Sanit explained that Gateway wishes to resell the toll services of American Telephone and Telegraph and WilTel, Inc., and that Gateway does not propose to provide intraLATA service. Mr. Sanit stated that Gateway will be responsible for billing, trouble reporting, and customer services. Mr. Sanit outlined Gateway's financial qualifications, background, and technical capabilities. According to Mr. Sanit's testimony, Gateway will comply with all Rules and Regulations that the Commission may lawfully impose.

After full consideration of the applicable law and of the evidence presented by Gateway, the Consumer Advocate, Southern Bell, and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Gateway is incorporated under the laws of the State of Delaware, and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Gateway operates as both a facilities and non-facilities based reseller of interexchange services and wishes to do so on an interLATA basis in South Carolina.
3. Gateway has the experience, capability, and financial resources to provide the services as described in its Application.
4. Southern Bell and other local exchange carriers (LECs)

should be compensated for any unauthorized intraLATA calls completed through Gateway's service arrangements.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Gateway to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Gateway for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts Gateway's proposed maximum rate tariffs.

3. Gateway shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Gateway shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Gateway's

subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1991).

4. Gateway shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order.

5. Gateway is subject to access charges pursuant to Commission Order No. 96-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to Gateway's resale of service, an end user should be able to access another interexchange carrier or operator service provider if they so desire.

7. Gateway shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Gateway changes underlying carriers, it shall notify the Commission in writing.

8. All intrastate intraLATA calls must be completed over intraLATA WATS, MTS, private and foreign exchange lines or any other service of authorized intraLATA facilities based carriers approved for resale on an intraLATA basis. Any intraLATA calls not completed in this manner will be considered unauthorized traffic and the Company will be required to compensate the local exchange companies for the unauthorized calls it carries pursuant to Commission Order No. 86-793 in Docket No. 86-187-C.

9. Gateway shall file surveillance reports on a calendar or

fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy
Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER
DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).